



Potential Transportation Issues for the 2006 Legislative Session

Agency Request Legislation

- Expansion of design-build contracting authority.
- Use of traffic safety cameras in work zones on state highways.
- Tire chain vendors on mountain passes.
- Extension of the deadline for negotiating a franchise for the old Milwaukee Rail Line.

Major Transportation Issues

- Project and Program Delivery for Nickel and 2005 Partnership Programs
- Regional Governance and Funding
- Statewide Transportation Governance
- Performance Audits of Transportation
- Tolling
- Implementation of Public Private Partnership Program
- Ferry Issues
 - Fuel
 - Vessel Construction
 - Arbitration Awards
 - Passenger-Only Service
- Initiatives to the Legislature
 - I-348 regarding weight fees.
 - I-350 regarding HOV lanes and congestion relief.
 - I-352 regarding revenue and fee increases.
- Monorail
- Commute Trip Reduction Program Redesign
- Office of Transit Mobility
- Tribal Fuel Tax
- Hood Canal Bridge and the Graving Dock

General Issues of Interest

- Governor's Land Use Agenda
- Liability Reform
- Biodiesel and Alternative Energy
- NASCAR
- Offshore Outsourcing



Z-0792 – Authorizing the Use of Automated Traffic Safety Cameras in State Highway Work Zones

The Need for Legislation

Between 1999 and 2003, 41 people died in state highway work zones and 3,709 people were injured. In 85 percent of work zone collisions nationwide, it is the driver and passengers that are hurt or killed. Speeding and inattentive driving are the two major reasons for work zone crashes. In a recent survey, four out of five drivers said they slowed down when they entered a work zone, but radar speeds showed none of them actually did. The Washington State Department of Transportation (WSDOT) and the Washington State Patrol (WSP) have undertaken several initiatives to increase work zone safety. Examples of those efforts include the “Give’em a brake” campaign, increased WSP presence in work zones and better reflective gear for workers.

Regulating work zones with automated traffic cameras is a tool that other jurisdictions in the United States are beginning to use. The Metropolitan Police Department in the District of Columbia found that the use of traffic cameras reduced aggressive speeding from one in three motorists in 2001 to one in thirty motorists in 2005. This initial success has led the Department to deploy two traffic camera vans in construction work zones around the city.

The Illinois Legislature recently authorized the use of traffic cameras in work zones around the state. Photo speed enforcement will only operate when workers are present in the construction zone. Signs indicating that speeds are photo enforced will be clearly posted in the area where the systems may be in use. In addition, the vans will have a speed indicator device that will be triggered by separate radar and will communicate the vehicle’s speed to the motorist. This will give the motorist one last opportunity to slow down before the camera radar is triggered. Photo speed enforcement fines are the same as other work zone fines in the state.

Current Washington Law

During the 2005 Legislative Session, the Washington State Legislature approved the use of automated traffic cameras for the regulation of red light violations at intersections, railroad crossings and school speed zones.

Proposed Legislation

The proposed legislation enables the WSDOT to use traffic cameras in work zones on state highways. The WSP may issue infractions based on traffic safety camera information in work zones on state highways when workers are present. The fine issued for work zone infractions must be the same as fines issued for speeding violations in work zones. WSDOT will work closely with the WSP and other stakeholders to implement the proposed legislation.

1 AN ACT Relating to the use of automated traffic safety cameras in
2 state highway work zones; and amending RCW 46.63.170.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 46.63.170 and 2005 c 167 s 1 are each amended to read
5 as follows:

6 (1) The use of automated traffic safety cameras for issuance of
7 notices of infraction is subject to the following requirements:

8 (a) The appropriate local legislative authority must first enact an
9 ordinance allowing for their use to detect one or more of the
10 following: Stoplight, railroad crossing, or school speed zone
11 violations. At a minimum, the local ordinance must contain the
12 restrictions described in this section and provisions for public notice
13 and signage. Cities and counties using automated traffic safety
14 cameras before July 24, 2005, are subject to the restrictions described
15 in this section, but are not required to enact an authorizing
16 ordinance. Infractions issued on state highways are not subject to
17 this subsection (1)(a).

18 (b) The Washington state patrol may issue infractions in work zones
19 on state highways when workers are present.

1 (c) Use of automated traffic safety cameras is restricted to two-
2 arterial intersections, railroad crossings, highway work zones, and
3 school speed zones only.

4 (~~((e))~~) (d) Automated traffic safety cameras may only take pictures
5 of the vehicle and vehicle license plate and only while an infraction
6 is occurring. The picture must not reveal the face of the driver or of
7 passengers in the vehicle.

8 (~~((d))~~) (e) A notice of infraction must be mailed to the registered
9 owner of the vehicle within fourteen days of the violation, or to the
10 renter of a vehicle within fourteen days of establishing the renter's
11 name and address under subsection (3)(a) of this section. The law
12 enforcement officer issuing the notice of infraction shall include with
13 it a certificate or facsimile thereof, based upon inspection of
14 photographs, microphotographs, or electronic images produced by an
15 automated traffic safety camera, stating the facts supporting the
16 notice of infraction. This certificate or facsimile is prima facie
17 evidence of the facts contained in it and is admissible in a proceeding
18 charging a violation under this chapter. The photographs,
19 microphotographs, or electronic images evidencing the violation must be
20 available for inspection and admission into evidence in a proceeding to
21 adjudicate the liability for the infraction. A person receiving a
22 notice of infraction based on evidence detected by an automated traffic
23 safety camera may respond to the notice by mail.

24 (~~((e))~~) (f) The registered owner of a vehicle is responsible for an
25 infraction under RCW 46.63.030(1)(e) unless the registered owner
26 overcomes the presumption in RCW 46.63.075, or, in the case of a rental
27 car business, satisfies the conditions under subsection (3) of this
28 section. If appropriate under the circumstances, a renter identified
29 under subsection (3)(a) of this section is responsible for an
30 infraction.

31 (~~((f))~~) (g) Notwithstanding any other provision of law, all
32 photographs, microphotographs, or electronic images prepared under this
33 section are for the exclusive use of law enforcement in the discharge
34 of duties under this section and are not open to the public and may not
35 be used in a court in a pending action or proceeding unless the action
36 or proceeding relates to a violation under this section. No
37 photograph, microphotograph, or electronic image may be used for any

1 purpose other than enforcement of violations under this section nor
2 retained longer than necessary to enforce this section.

3 ~~((g+))~~ (h) All locations where an automated traffic safety camera
4 is used must be clearly marked by placing signs in locations that
5 clearly indicate to a driver that he or she is entering a zone where
6 traffic laws are enforced by an automated traffic safety camera.

7 ~~((h+))~~ (i) If a county or city has established an authorized
8 automated traffic safety camera program under this section, the
9 compensation paid to the manufacturer or vendor of the equipment used
10 must be based only upon the value of the equipment and services
11 provided or rendered in support of the system, and may not be based
12 upon a portion of the fine or civil penalty imposed or the revenue
13 generated by the equipment.

14 (2) Infractions detected through the use of automated traffic
15 safety cameras are not part of the registered owner's driving record
16 under RCW 46.52.101 and 46.52.120. Additionally, infractions generated
17 by the use of automated traffic safety cameras under this section shall
18 be processed in the same manner as parking infractions, including for
19 the purposes of RCW 3.46.120, 3.50.100, 35.20.220, 46.16.216, and
20 46.20.270(3). However, the amount of the fine issued for an infraction
21 generated through the use of an automated traffic safety camera shall
22 not exceed the amount of a fine issued for other parking infractions
23 within the jurisdiction, except that the fine issued for work zone
24 infractions must be the same as fines issued for speeding violations in
25 work zones under RCW 46.61.527.

26 (3) If the registered owner of the vehicle is a rental car
27 business, the law enforcement agency shall, before a notice of
28 infraction being issued under this section, provide a written notice to
29 the rental car business that a notice of infraction may be issued to
30 the rental car business if the rental car business does not, within
31 eighteen days of receiving the written notice, provide to the issuing
32 agency by return mail:

33 (a) A statement under oath stating the name and known mailing
34 address of the individual driving or renting the vehicle when the
35 infraction occurred; or

36 (b) A statement under oath that the business is unable to determine
37 who was driving or renting the vehicle at the time the infraction
38 occurred; or

1 (c) In lieu of identifying the vehicle operator, the rental car
2 business may pay the applicable penalty.

3 Timely mailing of this statement to the issuing law enforcement
4 agency relieves a rental car business of any liability under this
5 chapter for the notice of infraction.

6 (4) Nothing in this section prohibits a law enforcement officer
7 from issuing a notice of traffic infraction to a person in control of
8 a vehicle at the time a violation occurs under RCW 46.63.030(1) (a),
9 (b), or (c).

10 (5) For the purposes of this section, "automated traffic safety
11 camera" means a device that uses a vehicle sensor installed to work in
12 conjunction with an intersection traffic control system, a railroad
13 grade crossing control system, or a speed measuring device, and a
14 camera synchronized to automatically record one or more sequenced
15 photographs, microphotographs, or electronic images of the rear of a
16 motor vehicle at the time the vehicle fails to stop when facing a
17 steady red traffic control signal or an activated railroad grade
18 crossing control signal, or exceeds a speed limit in a school speed
19 zone or work zone safety area as detected by a speed measuring device.

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Z-0791 – Modifying Transportation Project Design-Build Provisions

Design-Build Background

The design-build approach to contracting enables the owner of a project to contract with a single entity for performing both the design and construction portion of a single project. Design-build relies on a contractor and designer forming a team and working jointly on a common schedule.

One study of 21 design-build projects from across the country found that 76% of the projects finished ahead of the owner's schedule and 100% of the projects were completed ahead of what would have been anticipated in a design-bid-build environment. The same study found that design-build projects have less than a four percent growth in cost, while typical design-bid-build projects have a five to ten percent growth in cost. Generally, design-build appears to reduce delivery schedules and enables better cost management.

Current Design-Build Authorization

Current Washington law authorizes the Washington State Department of Transportation (WSDOT) to use design-build for projects over ten million dollars where the construction activities are highly specialized, the projects provide an opportunity for efficiencies between the designer and builder, or significant savings in project delivery time would be realized. This authorization expires in 2008.

Existing and Potential Design-Build Projects

The I-5 Everett project, I-405 Kirkland project and the Tacoma Narrows bridge are the existing WSDOT design-build projects. A number of funded projects on I-405, as well as several funded projects on other highways, are anticipated to utilize Design-Build. All of these are over the \$10 million threshold.

Proposed Legislation

The proposed legislation authorizes WSDOT to test the design-build approach on five pilot projects ranging from \$2 million to \$10 million and removes the 2008 sunset from the existing design-build authority. Some states have achieved improved delivery schedules on projects of this size. While no projects are currently selected for these pilots, WSDOT anticipates the selection of certain specialty projects, such as Intelligent Transportation Systems, electrical work, and signal installation. WSDOT will work closely with Associated General Contractors (AGC) and The American Council of Engineering Companies (ACEC) to implement this authority.

1 AN ACT Relating to design-build construction for transportation
2 projects; and amending RCW 47.20.785.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 47.20.785 and 2001 c 226 s 3 are each amended to read
5 as follows:

6 (1) The department of transportation may use the design-build
7 procedure for public works projects over ten million dollars where:

8 ~~((1))~~ (a) The construction activities are highly specialized and
9 a design-build approach is critical in developing the construction
10 methodology; or

11 ~~((2))~~ (b) The projects selected provide opportunity for greater
12 innovation and efficiencies between the designer and the builder; or

13 ~~((3))~~ (c) Significant savings in project delivery time would be
14 realized.

15 ~~((This section expires April 30, 2008.))~~

16 (2) To test the applicability of the design-build procedure on
17 smaller projects and specialty projects, the department may conduct up
18 to five pilot projects on projects that cost between two and ten
19 million dollars. The department shall evaluate these pilot projects

- 1 with respect to cost, time to complete, efficiencies gained, if any,
- 2 and other pertinent information to facilitate analysis regarding the
- 3 further use of the design-build process on projects of this size.

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Z-0754 – Permitting Roadside Tire Chain Businesses

Background

Keeping mountain passes open during inclement weather is one of WSDOT's operational commitments. Vehicles ignoring chain requirements significantly contribute to accidents and congestion at mountain passes. The California Department of Transportation (Caltrans) experienced similar problems over Donner Pass. Caltrans currently licenses vendors who install chains on vehicles traveling over Donner Pass for a fee ranging from \$20-\$30. Caltrans has found the use of vendors to install chains to be effective for facilitating travel over mountain passes.

Proposed Legislation

The proposed legislation would allow vendors on state highway right-of-way to install chains on passenger vehicles and heavy trucks traveling on mountain passes. The vendors would be allowed to charge a fee for the services provided.

The legislation also authorizes WSDOT to adopt rules to implement the legislation. WSDOT would work with stakeholders to develop the details of the program. Issues that will be discussed in the rule-making process include the fee to obtain a permit; other minimum requirements to obtain permits; logistics associated with work stations and chain-up areas; and clarification that the use of a chain installation vendor is not mandatory.

1 AN ACT Relating to authorization for the department of
2 transportation to allow roadside tire chain installation and removal
3 businesses on state highway rights of way; amending RCW 47.32.120; and
4 adding a new section to chapter 47.04 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 47.04 RCW
7 to read as follows:

8 The department may issue written permits authorizing permittees to
9 install or remove tire chains on motor vehicles with the following
10 conditions:

11 (1) Chains may only be installed or removed at locations designated
12 in the permit;

13 (2) Permittees must comply with terms and conditions in the permit
14 relating to the safe and orderly movement of traffic; and

15 (3) Permittees may charge a fee to drivers for their services.

16 The department may issue sufficient permits for the installation or
17 removal of tire chains that it finds necessary or desirable to
18 accommodate the demand for those services consistent with the maximum
19 convenience and safety to traffic. The department may charge a fee to

1 permittees for the issuance of permits. The department, in issuing a
2 permit for the installation or removal of tire chains, assumes no
3 responsibility for the actions, inactions, competence, or reliability
4 of the permittee in performing those services and shall not be liable
5 for the damages relating to acts or omissions of the permittees. The
6 department may adopt rules to implement this section.

7 **Sec. 2.** RCW 47.32.120 and 1984 c 7 s 183 are each amended to read
8 as follows:

9 Except as provided in section 1 of this act, it is unlawful for any
10 person to erect a structure or establishment or maintain a business,
11 the nature of which requires the use by patrons or customers of
12 property adjoining the structure or establishment unless the structure
13 or establishment is located at a distance from the right of way of any
14 state highway so that none of the right of way thereof is required for
15 the use of the patrons or customers of the establishment. Any such
16 structure erected or business maintained that makes use of or tends to
17 invite patrons to use the right of way or any portion thereof of any
18 state highway by occupying it while a patron is a public nuisance, and
19 the department may fence the right of way of the state highway to
20 prevent such unauthorized use thereof.

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Z-0755 – Extending the Negotiation Period for the Milwaukee Road Rail Line

Milwaukee Rail Line Background

In 1980, the Milwaukee Railroad declared bankruptcy, sold some of its properties, and salvaged its track. During those bankruptcy proceedings, the railroad offered to sell Washington most of its right of way in Eastern Washington.

In 1981, the Legislature appropriated \$3.5 million to purchase right of way. Over the next several years, the state acquired approximately 213 miles of right of way, stretching from Easton near Snoqualmie Pass, to the Idaho state line.

The right of way owned by the state was eventually put under the management and control of three different state agencies: Washington State Parks, Department of Natural Resources and Department of Transportation (WSDOT). In 1994 the Freight Rail Policy Advisory Committee, consisting of public and private entities with an interest in improving freight transportation, recommended exploring the old Milwaukee corridor's potential for relieving freight congestion. In 1995, a Freight Rail and Freight Mobility Task Force recommended reinstituting freight rail service over the portion of the Milwaukee Railroad corridor running from Ellensburg to Lind.

The 1996 Legislature created a unified transportation corridor and consolidated state-owned portions of land from Ellensburg to Lind into a single owner, the WSDOT. The need for additional freight rail capacity from Ellensburg to Lind did not materialize and freight rail companies did not express interest in obtaining the franchise over the corridor. In 1999, the Legislature extended the deadline for WSDOT to enter into a franchise agreement until July 1, 2006.

The Need for Legislation

Recent studies by the Washington Public Ports Association indicate that the old Milwaukee line might be critical to freight rail issues in Washington. Without legislation extending the date for a franchise agreement to be reached, the transportation corridor will no longer be under the management of WSDOT for freight rail use.

Proposed Legislation

The proposed legislation extends the deadline for WSDOT to enter into a franchise agreement until July 1, 2013.

1 AN ACT Relating to the Milwaukee Road cross-state trail; and
2 amending RCW 79A.05.115 and 79A.05.120.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 79A.05.115 and 1999 c 301 s 1 are each amended to read
5 as follows:

6 (1) The commission shall develop and maintain a cross-state trail
7 facility with appropriate appurtenances.

8 (2) This section expires July 1, ((2006)) 2013, if the department
9 of transportation does not enter into a franchise agreement for a rail
10 line over portions of the Milwaukee Road corridor by July 1, ((2006))
11 2013.

12 **Sec. 2.** RCW 79A.05.120 and 1999 c 301 s 2 are each amended to read
13 as follows:

14 (1) To facilitate completion of a cross-state trail under the
15 management of the parks and recreation commission, management and
16 control of lands known as the Milwaukee Road corridor shall be
17 transferred between state agencies as follows on the date a franchise

1 agreement is entered into for a rail line over portions of the
2 Milwaukee Road corridor:

3 (a) Portions owned by the state between Ellensburg and the Columbia
4 river that are managed by the parks and recreation commission are
5 transferred to the department of transportation;

6 (b) Portions owned by the state between the west side of the
7 Columbia river and Royal City Junction and between Warden and Lind that
8 are managed by the department of natural resources are transferred to
9 the department of transportation; and

10 (c) Portions owned by the state between Lind and the Idaho border
11 that are managed by the department of natural resources are transferred
12 to the parks and recreation commission.

13 (2) The department of natural resources and the parks and
14 recreation commission may by mutual agreement transfer the management
15 authority over portions of the Milwaukee Road corridor between their
16 two respective agencies without legislative approval if the portion
17 transferred does not exceed ten miles in length.

18 (3) This section expires July 1, ((2006)) 2013, and no transfers
19 shall occur if the department of transportation does not enter into a
20 franchise agreement for a rail line over portions of the Milwaukee Road
21 corridor by July 1, ((2006)) 2013.

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